

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROBERT L. BETTS,

Plaintiff,

v.

GET FRESH SALES, INC., a Nevada
corporation,

Defendant.

2:10-CV-01135-LRH-LRL

ORDER

Before the court is Defendant's Motion to Dismiss for failure to prosecute. Doc. #24. Plaintiff did not respond, and Defendant filed a Notice of No Opposition. Doc. #26.

Plaintiff Robert L. Betts initiated this action against his former employer, Defendant Get Fresh Sales, Inc., on June 2, 2010. Doc. #1. On September 15, 2010, this court granted Plaintiff's attorney's motion to withdraw as counsel, stayed all proceedings through October 31, 2010, to allow Plaintiff adequate time to seek new counsel, and ordered that thereafter Plaintiff would be required to participate in discovery whether he retained new counsel or not. Doc. #20. Plaintiff did not retain new counsel and has not participated in discovery following the expiration of the stay on November 1, 2010. According to Defendant's representations to the court, Plaintiff has failed to make proper disclosures under Fed. R. Civ. P. 26(a) and failed to supplement them when requested; failed to respond to Defendant's first set of interrogatories and first set of requests for production of documents; failed to adhere to the court's September 15 order requiring Plaintiff to

1 participate in discovery; and failed to otherwise seek to prosecute his case in any way. *See* Doc.
2 #24, p. 7. Plaintiff has even failed to respond to the instant motion to dismiss for failure to
3 prosecute.

4 The court finds that dismissal of this action is warranted based on Plaintiff's failure to
5 participate in the discovery process or prosecute this action in any way following the lifting the
6 stay, in contravention of the court's prior order. *See* Fed. R. Civ. P. 41(b); *see also* Fed. R. Civ. P.
7 37(b)-(d). Moreover, Plaintiff's failure to respond to the instant motion to dismiss indicates a lack
8 of intention to prosecute this action going forward and constitutes consent to the granting of the
9 motion. *See* Local Rule 7-2(d).

10 IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss for failure to
11 prosecute (Doc. #24) is GRANTED.

12 IT IS SO ORDERED.

13 DATED this 5th day of March, 2011.

14
15 

16 LARRY R. HICKS
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26